

## EXHIBIT C

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

CORY SPENCER, an individual; ) Case No.  
DIANA MILENA REED, an ) 2:16-cv-02129-SJO-RAO  
individual; and COASTAL )  
PROTECTION RANGERS, INC., a )  
California non-profit public )  
benefit corporation, )

Plaintiffs, )

v. )

LUNADA BAY BOYS; THE )  
INDIVIDUAL MEMBERS OF THE )  
LUNADA BAY BOYS, including )  
but not limited to SANG LEE, )  
BRANT BLAKEMAN, ALAN JOHNSTON )  
aka JALIAN JOHNSTON, MICHAEL )  
RAE PAPAYANS, ANGELO FERRARA, )  
FRANK FERRARA, CHARLIE )  
FERRARA and N.F.; CITY OF )  
PALOS VERDES ESTATES; )  
CHIEF OF POLICE JEFF KEPLEY, )  
in his representative )  
capacity; and DOES 1-10, )

Defendants. )

Deposition of CORY ELTON SPENCER, taken  
on behalf of defendants, at 777 South Figueroa Street,  
Suite 4550, Los Angeles, California, beginning at  
10:01 a.m. and ending at 6:35 p.m., on Tuesday,  
October 11, 2016, before Carmen R. Sanchez,  
Certified Shorthand Reporter No. 5060.

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I N D E X

WITNESS

CORY ELDON SPENCER

Examination by:	Page
MS. HEWITT	11, 305, 337
MR. FIELDS	217
MR. WORGUL	222, 306, 326, 343, 345
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MR. HAVEN	321, 336, 343
MR. FRANKLIN	344

E X H I B I T S

Defendants' Exhibit	Description	Page Introduced	Page Marked
Exhibit 40	Copy of a document entitled, "DEFENDANTS CITY OF PALOS VERDES ESTATES AND CHIEF OF POLICE JEFF KEPLEY'S NOTICE OF DEPOSITION TO PLAINTIFF CORY SPENCER"	21	21
Exhibit 41	Copy of a document entitled, "CLASS ACTION COMPLAINT AND JURY DEMAND"	29	29

Continued ....

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I N D E X (CONTINUED)

E X H I B I T S

Defendants' Exhibit	Description	Page Introduced	Page Marked
Exhibit 42	Copy of an E-mail dated March 05, 2016, from Jeff Kepley to Mark Velez; Bates-stamped CITY1807	158	158
Exhibit 43	Color copy of a photograph taken at the deposition of Cory Eldon Spencer depicting his hand and scar	306	306
Exhibit 44	Copy of a drawing made on yellow legal pad paper by Mr. Worgul during the deposition of Cory Eldon Spencer	334	334

Continued ....



1 Los Angeles, California

2 Tuesday, October 11, 2016, 10:01 a.m. - 6:35 p.m.

3  
4 THE REPORTER: Pursuant to the Federal Rules of  
5 Civil Procedure, I am required to state the following:

6 My name is Carmen R. Sanchez, a  
7 certified court reporter with Hahn & Bowersock, A  
8 Veritext Company, located at 20 Corporate Park,  
9 Suite 350, Irvine, California.

10 This is the deposition of  
11 Cory Eldon Spencer, in the matter of Cory Spencer,  
12 et al., vs. Lunada Bay Boys, et al., beginning at  
13 10:01 a.m., on Tuesday, October 11, 2016.

14 Counsel, will you please state your  
15 appearances for the record.

16 MS. HEWITT: Antoinette Hewitt for the city.

17 MR. WORGUL: John Worgul for defendant  
18 Brant Blakeman.

19 MR. HAVEN: Peter Haven for defendant  
20 Michael Papayans.

21 MR. CROWLEY: Daniel Crowley with Booth,  
22 Mitchel & Strange on behalf of Sang Lee.

23 MS. LUTZ: Tera Lutz for defendant Sang Lee.

24 MR. COOPER: Robert S. Cooper, Buchalter Nemer  
25 for defendant Brant Blakeman telephonically.

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1 MR. FIELDS: Mark Fields for Angelo Ferrara and  
2 N.F. telephonically.

3 MS. BELL: Laura Bell for Frank Ferrara and  
4 Charlie Ferrara appearing telephonically.

5 MR. FRANKLIN: Kurt Franklin on behalf of  
6 Mr. Spencer and the other plaintiffs in this matter.  
7 And if I can, just as a matter of housekeeping, the  
8 plaintiffs would request under FRCP 30, the ability to  
9 review the transcript within 30 days.

10

11 CORY ELDON SPENCER,  
12 called as a witness by and on behalf of the  
13 defendants, and having been first duly sworn  
14 by the Certified Shorthand Reporter, was examined and  
15 testified as follows:

16

17 EXAMINATION

18 BY MS. HEWITT:

19 Q Would you please state and spell your  
20 name for the record.

21 A Cory Spencer.

22 This is a microphone? Cory Spencer, C-o  
23 -- Cory Eldon Spencer, C-o-r-y E-l-d-o-n S-p-e-n-c-e-r.

24 Q Have you ever given a deposition before?

25 A I have.

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1 MR. FRANKLIN: Vague and ambiguous.

2 THE WITNESS: I don't know how to answer that  
3 any other way than I already did. When you drive up,  
4 you -- because of the lure, the stories, you feel  
5 fearful of, hey, is this real? Is this -- is this  
6 place really like they say it is? Am I going to get my  
7 property vandalized? Am I going to get, you know, in  
8 some type of confrontation? That's a fear.

9 MS. HEWITT: Okay.

10 Let's break that down then. Of the four  
11 to five times you went to Lunada Bay before you turned  
12 20, looking at the first time you went, did you  
13 experience any intimidation there?

14 MR. FRANKLIN: Vague and ambiguous.

15 THE WITNESS: No. I was never, per se,  
16 confronted by anybody; so I was -- I wasn't intimidated  
17 by any individual.

18 BY MS. HEWITT:

19 Q Okay. That same time, did you  
20 experience any vandalism?

21 A No.

22 Q Okay.

23 Did anything occur during that first  
24 visit to Lunada Bay -- to Lunada Bay, excuse me, before  
25 you turned 20, that caused you to later be fearful of

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1 coming back to Lunada Bay?

2 A No.

3 Q Okay.

4 During the second time you visited  
5 Lunada Bay before you turned 20, did you experience any  
6 intimidation?

7 A We're going time by time?

8 Q Yes.

9 A Let me just save you the, I guess, the  
10 hassle of going through. They were just every time you  
11 would drive up the same way and just check it out, and  
12 nothing that the line of questioning that we went  
13 through happened in each one of those four to five  
14 times.

15 Q Okay.

16 During the four to five times?

17 A Does that make sense?

18 Q Sure. Let me just restate it, and I  
19 appreciate that.

20 During the four to five times you  
21 visited Lunada Bay before you turned 20, you did not  
22 experience any intimidation --

23 MR. FRANKLIN: Vague and ambiguous.

24 BY MS. HEWITT:

25 Q -- is that correct?

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1 in January 2016?

2 A Well, there's safety in numbers. You  
3 know, I work in a job where it's not safe all the time,  
4 and we're safer in numbers, and this movement kind of  
5 resonated with me because if you have a large number of  
6 people who want to go and enjoy the beach peacefully  
7 and safely, then, I thought that that would be probably  
8 No. 1, my -- my safest opportunity to go there, and  
9 they had a track record of doing it I think the year  
10 prior. And from what I understand, there was minor  
11 incidents with that group but nothing to the extent of  
12 the stories that I heard --

13 Q Okay.

14 A -- about fights and vandalism and stuff  
15 like that so ...

16 Q Okay.

17 Let me ask that this way. Was it your  
18 idea to go to Lunada Bay in January of 2016 unprompted  
19 by anybody else?

20 A On that time, yeah. I called Chris or  
21 texted him and said, "Hey, there's a swell coming. I'm  
22 Cory. I'm Tom's friend. Let's get some people  
23 together and go surf."

24 Q Okay. And did he respond?

25 A Yes.

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1 Q And how?

2 A He got all excited and said, "I'll put  
3 the word out, and let's -- we'll get a few of our Aloha  
4 people and go have some good, peaceful, clean surfing,  
5 hopefully."

6 Q Okay.

7 Did you have, in your mind, how many  
8 people you wanted to go with in order to get up the  
9 nerve to go to Lunada Bay that day?

10 A In my mind?

11 Q Yes.

12 A If it were a perfect scenario for me,  
13 I'd like 100 -- at least 100 guys to go down there.

14 Q Okay. Bad question.

15 If only Chris had gone with you, would  
16 you have gone?

17 A No.

18 Q All right.

19 So, eventually, you and Chris agreed to  
20 go; correct?

21 A Correct.

22 Q Did he tell you how many other people  
23 were going to come before you actually went?

24 A No.

25 Q Okay.

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1 A I was not aware.

2 Q Okay. All right.

3 Did you -- oh, prior to the day you  
4 actually went in January of 2016, had you ever  
5 communicated with anybody at the City of Palos Verdes  
6 about any problems with Lunada Bay, including violence,  
7 intimidation, fear, anything like that?

8 A Yes.

9 MR. FRANKLIN: Vague and ambiguous.

10 BY MS. HEWITT:

11 Q Okay. On how many occasions?

12 A Prior to going down there that day?

13 Q Yes.

14 A I think I contacted the chief first. I  
15 don't recall getting a response from him; and, then,  
16 kind of reading their organizational chart, and I  
17 believe I contacted a captain, and I don't recall his  
18 name.

19 Q Okay. And what did you say -- or not  
20 what did you say. How did you contact him?

21 A I don't know if the first time was  
22 initially E-mail or a call. It could have been either  
23 one, and I just requested, "Hey, there's a group of us.  
24 I'm sure you're aware of the group. We're going down  
25 there this date. Can we get some extra patrol?"

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1 Q Okay.

2 And did you get a response?

3 A Yes. There was dialogue, and I don't  
4 remember the exact -- I think it was mostly after that  
5 through E-mail. I don't recall ever speaking -- I  
6 don't recall if I ever spoke to him on the phone or  
7 not, but I know most was through E-mail. That's my  
8 best recollection right now.

9 Q Okay.

10 A Can I get a drink or --

11 Q Sure. You know what? Why don't we take  
12 a little break right now. We're going a little while.

13 A My mouth is dry.

14 MS. HEWITT: I'll bet.

15 Let's go off the record.

16 (A recess was taken at 11:31 a.m.  
17 until 11:45 a.m.)

18 BY MS. HEWITT:

19 Q What city do you live in?

20 A I live in the City of Norco.

21 Q Okay.

22 Oh, that's quite a commute to  
23 El Segundo.

24 A Yes.

25 Q Okay.

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1 Q Okay.

2 What are the three places that you surf  
3 at most often in any given year?

4 A Most often any given year, I would say  
5 El Porto in Manhattan Beach, Oceanside Harbor in  
6 San Diego County, and I would really like it to be  
7 Lunada in the winter if it was safe to go there, and I  
8 think that's what this claim is about; so, that's not  
9 one of them yet. I could say Huntington in  
10 Orange County.

11 Q Okay. Those are all fairly long drives  
12 from Norco. Do you often -- do you go directly from  
13 home when you go surf at Manhattan Beach or Oceanside  
14 or Huntington, or do you go to work first?

15 A It just depends if I'm at work or home.  
16 And when I have time to go, I'll usually have a board  
17 stored at work; a board at home.

18 Q Okay.

19 We were talking a little bit about  
20 communications with the city prior to your actual visit  
21 to Lunada Bay in January of 2016. Let me go back a  
22 little bit on that as well.

23 We went over fairly exhaustively before  
24 the four to five times you went to Lunada Bay up until  
25 the time you were 20; and, then, the four to five times

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1     you went after that up until January 2016. During any  
2     of those visits -- so, I guess it would be eight to ten  
3     times that you visited prior to January 2016 -- did you  
4     ever experience anything that you believed to be was  
5     localism?

6             MR. FRANKLIN: Vague and ambiguous.

7             THE WITNESS: I'm going to say when I was on my  
8     bike and you have a group of guys standing around kind  
9     of looking at who's coming and going near the bluff, I  
10    would say that would be a group of guys at their local  
11    spot being locals, you know. Did they threaten;  
12    intimidate me? Not -- it was a little intimidating,  
13    you know. Did they vandalize any of my property? No.  
14    Did they get all up in my face? No. But they were  
15    there and looking at who's coming and going.

16    BY MS. HEWITT:

17            Q       And they didn't speak to you; correct?

18            A       No.

19            Q       And they didn't approach you?

20            A       No.

21            Q       And have you seen groups of guys like  
22    that at other beaches?

23            A       Like --

24            Q       Just like you described, a group of  
25    guys?

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1           A       Yeah. I -- you see guys hanging out at  
2       the parking lots and before they're going to get in the  
3       water or after they get out of the water.

4           Q       Okay.

5                    So, talking a little bit about your  
6       communications, I think you said with Captain Velez.

7           A       That's the name.

8           Q       Okay.

9                    Did you -- actually, I don't know if you  
10      said, "Velez." Do you think it was Velez?

11          A       You just did, but you refreshed my  
12      memory. Thank you very much.

13          Q       Okay. I didn't mean to. Okay. So, you  
14      believe it was Captain Velez; all right.

15          A       Yes.

16          Q       And you had testified that there was  
17      dialogue, and I'm not sure if you meant dialogue  
18      through E-mail or something on the phone. Can you  
19      clarify that?

20                 MR. FRANKLIN: Asked and answered.

21                 THE WITNESS: Can I clarify it?

22                 MS. HEWITT: Yeah.

23                 THE WITNESS: I don't recall if I -- I don't  
24      recall speaking to him, but I may have. The speaking  
25      and the E-mail dialogue -- I know I E-mailed him for

1 Q You don't remember a name or anything  
2 like that?

3 A I don't remember a name.

4 Q Okay. Fair enough.

5 All right. So, the next sentence in the  
6 complaint starting at the end of 17, sir, and going to  
7 18 states (as read):

8 "Upon arrival, members of the  
9 Defendant LUNADA BAY BOYS told him, 'you  
10 can't surf here kook.'"

11 Okay. About how long after you arrived  
12 do you recall that occurred?

13 A Almost instantaneously after you get  
14 your boards; so, after we arrived, I would say,  
15 approximately, within 20 to 30 minutes.

16 Q Okay.

17 Were you already getting ready to surf?

18 A Yes.

19 Q Okay. All right. And, then, I forgot  
20 to ask you. You said, "when we arrived." Who was the  
21 "we"?

22 A Chris and security guard --

23 Q Okay.

24 A -- guy.

25 Q So, in the end, it was just you two? It

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1 wasn't the six to eight?

2 A Not in the beginning, no.

3 Q Okay. So, when you went down to prepare  
4 to surf, it was you and Chris and the security guard?

5 MR. FRANKLIN: Misstates testimony.

6 BY MS. HEWITT:

7 Q Is that right? Or if it's wrong, go  
8 ahead and tell me.

9 A Chris and I and the security guard.

10 Q Okay.

11 A Yes.

12 Q And did the security guard stay by the  
13 cars?

14 A He stayed up with the cars.

15 Q Okay. All right.

16 When you first got to the beach that day  
17 and you're getting ready to surf, and you heard someone  
18 say, "You can't surf here kook," were you able to  
19 understand or were you able to identify who said that  
20 to you?

21 A No.

22 Q Okay.

23 Did you see a group of people from whom  
24 it came from?

25 A A group of people?

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1 Q Did you tell the direction where it came  
2 from or anything like that?

3 A To my north.

4 Q Okay. But you couldn't tell who said  
5 it?

6 A No.

7 Q Oh, okay. I see.

8 A It's -- it was kind of sunrise, dawn.

9 Q Okay.

10 When you first got down to the beach,  
11 could you see any other people there?

12 A There was a few people, and I'm assuming  
13 members of the Bay Boys at the -- way out at the point  
14 on the fort.

15 Q About how many people -- I'm sorry. Did  
16 I interrupt you?

17 A I couldn't recall a specific number but  
18 just a few.

19 Q More or less than five?

20 A I would say right around five.

21 Q Okay. And about how far were you from  
22 those -- those people when you heard the, "You can't  
23 surf here kook"?

24 MR. FRANKLIN: Assumes facts not in evidence.

25 THE WITNESS: Yeah, I didn't first hear that up

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1 Q Okay.

2 Can you tell me what you did up until  
3 the point when you were on your second wave?

4 MR. FRANKLIN: Vague and ambiguous.

5 THE WITNESS: What do you mean?

6 BY MS. HEWITT:

7 Q So you heard the statement, "kook"?

8 A Okay.

9 Q And you said you were going to ignore  
10 them?

11 A And several others.

12 Q What were the other things that you  
13 heard?

14 MR. FRANKLIN: Calls for a narrative.

15 THE WITNESS: Let's see. Specifically, you  
16 know, "How many other places did you pass to get here  
17 to surf?"

18 Can we say expletives or --

19 MS. HEWITT: Sure.

20 THE WITNESS: You want --

21 MS. HEWITT: Sure.

22 THE WITNESS: You know, why -- basically, "Why  
23 don't you fucking go home, you fucking kook"; and I  
24 mentioned already, "How many other good places did you  
25 pass to come here?" Those are the ones that stand out.

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1 BY MS. HEWITT:

2 Q Were there others?

3 A There may have been.

4 Q And did these all occur within those 20  
5 minutes?

6 A Yes.

7 Q Okay.

8 Did any --

9 A That's how it is when you go there.

10 Q Okay.

11 Did anything else occur in those first  
12 20 minutes after you arrived at Lunada Bay that caused  
13 fear?

14 MR. FRANKLIN: Vague and ambiguous.

15 MS. HEWITT: Well, actually, I'm going to  
16 withdraw that.

17 Q Did these statements cause fear for you?

18 A Yeah.

19 Q Okay.

20 A Yes. Sorry.

21 Q Did anything else occur in the 20  
22 minutes that caused fear for you?

23 A Yes.

24 Q What was that?

25 A More -- more of the same statements by a

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1 specific individual, who I could identify. I don't  
2 know his name. Same things. It was more of a -- more  
3 of a closer, I guess, encounter with the same language  
4 all the way down the trail; jumping into the water;  
5 same individual just keep, you know, heckling.

6 Q And when you say you could identify them  
7 but you don't know their name, do you mean you can  
8 describe what they look like?

9 A This guy, I can describe what he looks  
10 like.

11 Q Okay.  
12 What did he look like?

13 A He was a male white, probably 45 to 50  
14 years old; around six foot; one -- probably 185; black  
15 wetsuit and a hood and a colorful surfboard that was  
16 attached to his arm -- meaning he was holding it,  
17 yellow, orange, blue; and I saw him prior to that --  
18 so, I saw that same figure, not knowing if it's  
19 specifically him but on a good guess, with the same  
20 board, that that guy was walking across the bluff is  
21 when he first picked up on us, and he was fully  
22 clothed, light-blue sweatshirt with a hood, blue jeans,  
23 tennis shoes, and I don't recall if he had a hat or  
24 not, but dark hair.

25 Q Okay. All right.

1           A       -- basically, the time we got in the  
2     water.

3           Q       Okay.

4                    Anything else up until the time of your  
5     second wave?

6           A       Same comments from the original guy I  
7     described, talking to -- they were talking to some guys  
8     on the point in the fort back and forth; and, then, a  
9     couple guys in the water, one of them being Blakeman  
10    and I don't -- I just know they were talking to each  
11    other. They were -- it was like you could tell they  
12    knew each other.

13          Q       Okay.

14          A       And that was, again, a little  
15    unsettling.

16          Q       Okay.

17                   In the next sentence, it says, "Once in  
18    the water ..." -- looking at your -- at the complaint  
19    (as read):

20                   "Once in the water, on his  
21    second wave at Lunada Bay, a member  
22    of Defendant LUNADA BAY BOYS intentionally  
23    ran Spencer over with his surfboard and  
24    sliced open Spencer's hand."

25                   Is that true?

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1 A Yes.

2 Q All right.

3 Which hand was that?

4 A The right wrist.

5 Q Okay.

6 A With about a half-inch scar.

7 Q Do you mind showing it to me?

8 A Right there.

9 Q Okay. Okay. Thank you.

10 MR. WORGUL: Do you mind if I take a picture of  
11 it?

12 THE WITNESS: I'd have to refer to counsel.

13 MR. FRANKLIN: That's fine.

14 THE WITNESS: Go ahead.

15 MS. LUTZ: Sorry. Can I see? Thank you.

16 MR. WORGUL: Mr. Spencer, if you don't mind.

17 And could you just take the pen and just point to where  
18 it is so we can know right where you're showing us?

19 (Whereupon, the witness complies.)

20 MR. WORGUL: Okay. Thank you.

21 THE WITNESS: Uh-huh.

22 MS. HEWITT: Thank you, Mr. Spencer.

23 THE WITNESS: Yep -- yes.

24 MS. HEWITT: All right.

25 Q How did you determine that somebody

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1 surfboard, a surfboard having three fins or scags on  
2 the bottom. I don't know which of those three traveled  
3 over my right wrist and slit it open.

4 Q Okay.

5 When -- right after that occurred, what  
6 was the next thing that you did? Or, rather, what did  
7 you do?

8 A Well, I don't know how to -- we're not  
9 describing how I got to that point, though.

10 Q No. Right after your hand was cut, what  
11 was the next -- what did you do?

12 A After my hand was cut?

13 Q Yes.

14 A I continued paddling on my path to get  
15 out to the lineup.

16 Q Okay. So this occurred --

17 A With that individual who ran -- just ran  
18 me over; start berating me with comments of, you know,  
19 "What are you" -- "What are you fucking doing out here?  
20 I told you to go home. I should have ran you over.  
21 Why are you paddling in the sun glare where I can't see  
22 you?" And that's it. "I should have ran you over."

23 Q Did you get knocked off your surfboard?

24 A So now we're backing up to the point --

25 Q Correct, we are.

1           A       Okay. So once we locked eyes and I saw  
2       him veer and steer his board in my direction to -- to  
3       run over myself, I was paddling west out to the ocean.  
4       He was coming in east towards the shore, and I rolled  
5       off the left side of my board, and my hand was up --  
6       left high up on top of my board, and that's when he ran  
7       over the wrist.

8           Q       Okay.

9                    Did you continue to surf after that  
10       occurred?

11           A       Yes.

12           Q       Did you say anything to the person whose  
13       surfboard cut your hand?

14           A       After he made the comment that, "I  
15       should have ran you over," I says, "Well, you did," and  
16       I held up my hand and showed him, and that's when he  
17       said, you know, "Why are you paddling where I can't see  
18       you? You shouldn't paddle in the sunlight," stuff like  
19       that. Then I kept paddling off.

20           Q       Were you fearful of being further  
21       injured after that point?

22           A       That's an understatement.

23           Q       So is the answer yes?

24           A       Yes.

25           Q       Okay.

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1 Did you feel that what had occurred to  
2 you getting your hand cut and the way it happened was a  
3 crime?

4 A I know it was a crime.

5 Q Did you tell him it was a crime and that  
6 you were a police officer?

7 A I did not.

8 Q Why not?

9 A The way his explanation was going down  
10 the road of, basically, avoiding taking any  
11 responsibility for his actions; blaming it on the sun;  
12 blaming, you know, me paddling where I'm not supposed  
13 to be paddling -- I was paddling exactly where you're  
14 supposed to paddle to avoid injury; to avoid conflict  
15 with any other surfers. I was paddling back to the  
16 channel, which basically gets away from the critical  
17 part of the wave, which is where he should have been  
18 surfing when he redirected his path to run me over.

19 You know, in my opinion, yeah, it was a  
20 crime. Did I report it? It's going to be with no  
21 witnesses there; no police officers in the water, as  
22 there could have been; no police officers down on the  
23 beach, as there could have been; on the fort, as there  
24 could have been; nothing to corroborate my story, it  
25 would have been a "He said ..."; "He said ..." go

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1 nowhere thing.

2 Q Do you feel that was the case even  
3 though you're a police officer?

4 A I don't get it.

5 Q Did you think that your -- your  
6 recitation of what had happened would carry more weight  
7 since you're a police officer?

8 MR. FRANKLIN: Calls for speculation.

9 THE WITNESS: You know, when I'm not on duty,  
10 the best thing I can be is a good witness, and that's  
11 how I've lived the last 20-some years. I don't -- I  
12 don't ever throw out off duty that I'm a police  
13 officer; that you should treat me any different than  
14 anybody else in the public because I'm a police  
15 officer, and I didn't throw it out then. I didn't see  
16 a need to. I didn't think that it would do any good  
17 after the damage that was already done. You know, in  
18 retrospect, you know, I don't know. It still would  
19 have been a "He said ..."; "He said ..."; and I don't  
20 see the need to engage that type of violent behavior  
21 any more than it had already played itself out. The  
22 best thing I thought I could do is paddle out like I  
23 did and just get away from him.

24 MS. HEWITT: Okay.

25 Q Did you, at that point, have any fear

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1 and more and more started showing up on the fort.

2 BY MS. HEWITT:

3 Q More and more what?

4 A Bay Boys.

5 Q Bay Boys?

6 A Yeah.

7 Q Okay.

8 How about the other people that were  
9 supposed to come with you that day? Did they ever  
10 appear?

11 A So, after we got out of the water, there  
12 were -- and Chris knows all these guys. There was  
13 probably maybe six more -- six more people up top that  
14 were, you know, supposed to come out with us early, but  
15 some guys have different ideas of early; so ...

16 Q Okay.

17 So after the second wave, you -- you and  
18 Chris got out of the water; is that correct?

19 A Third. I caught one more. I don't  
20 know. Chris caught a lot of waves. Before I would say  
21 maybe -- I don't know how many he got. Probably double  
22 what I got. I got three; so, maybe he got more. I  
23 don't know. But after my third one is when we got out.

24 Q So after your hand was cut, how many  
25 more waves did you surf?

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1 A One.

2 Q After you got cut, how many more waves  
3 did Chris surf?

4 A I don't -- I don't know specifically.  
5 It wasn't many. I couldn't give you a number. I was  
6 kind of -- I was getting a little hypothermic. I was  
7 bleeding. I wanted to kind of stay in the cool water  
8 at least a little while longer to let the cold help  
9 with the cut. I was getting a little frail mentally  
10 'cause it was in my -- my fault was having a 10 to  
11 12-year-old wetsuit in the middle of winter, and I got  
12 cold; getting hypothermic. Now I'm injured, and I was  
13 worried about getting one more wave and getting out of  
14 there.

15 Q Did you tell Chris about your injury?

16 A Yes.

17 Q And when did you tell him that?

18 A Shortly after it happened.

19 Q All right.

20 While you were still in the water?

21 A Yes.

22 Q And did Chris tell you whether or not he  
23 saw the incident once your hand was cut?

24 A I don't recall if he saw it or not.

25 Q When you left the water, did you talk to

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1 Q Okay.

2 Now, with regard to what occurred to  
3 you, any of the things that you described for that  
4 January 2016 visit to Lunada Bay, is it correct that  
5 you did not report that to the City of Palos Verdes  
6 Estates Police Department?

7 MR. FRANKLIN: Vague and ambiguous.

8 THE WITNESS: Are you talking about my hand?

9 BY MS. HEWITT:

10 Q Yes, or anything that happened to you  
11 that day?

12 A I did not request a formal police  
13 report, no. I did not.

14 Q Okay.

15 Did you communicate to anybody at the  
16 City of Palos Verdes Estates Police Department with  
17 regard to what occurred to you that day at Lunada Bay?

18 MR. FRANKLIN: Vague and ambiguous.

19 THE WITNESS: Yes.

20 BY MS. HEWITT:

21 Q Okay. When was that?

22 A So, shortly after getting changed, I  
23 noticed the group of police officers standing to my  
24 south talking with what appeared to be another group of  
25 newly-formed Bay Boys.

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1                   So, the bay is a bay. There's a north  
2                   and a south end. The south group had, you know, trucks  
3                   and cars and guys standing kind of huddled around in a  
4                   group of guys, and the police officers were kind of  
5                   towards the south. They weren't right up next to the  
6                   group. And I did notice that a couple of police  
7                   officers appeared to be talking with a few members of  
8                   the group; and, so, I made a point, because there was,  
9                   in my opinion -- and I don't know if it was directed by  
10                  my contacts with the captain or whatnot, but I noticed  
11                  the group of police officers; so, I personally wanted  
12                  to go over and tell them, you know, "Hey, thanks for  
13                  showing up," you know. "We appreciate it." You know,  
14                  and the one younger officer -- I don't know his name.  
15                  I didn't get any of their names. I, basically, you  
16                  know, told him what happened to me down there, you  
17                  know; showed him my hand and -- and I told him, I says,  
18                  you know, "The guy is going to claim sun glare and  
19                  whatnot." I just didn't want to -- I knew where it was  
20                  going to go. "He said ..."; "He said ..."; and, no, he  
21                  didn't offer to take a report. You know, he didn't ask  
22                  me to point anybody out. I know you're going to ask  
23                  all these questions; so, we'll just cut to the chase.

24                  Q           He did not offer to take a report;  
25                  right?

1 A Right.

2 Q Okay.

3 A But, again, I thanked him for being down  
4 there, you know, for what I felt a response to my  
5 E-mail without knowing for sure.

6 Q Okay. And you said that you didn't ask  
7 for a formal report; is that right?

8 A That's correct.

9 Q Okay.

10 A Just as I stated several minutes ago, it  
11 wasn't ...

12 Q Did you ask for any sort of follow-up  
13 action to be taken?

14 MR. FRANKLIN: Vague and ambiguous.

15 THE WITNESS: No, not that I can recall.

16 BY MS. HEWITT:

17 Q And you said that you showed them your  
18 hand, or you told them about your hand?

19 A No, I showed them. I showed a lot of  
20 people my hand.

21 Q You showed the police officers there  
22 that day?

23 A Like I showed all of you here, I showed.

24 Q You showed the police officers?

25 A Yes.

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1 Q Did the police officers have any  
2 recommendations for you?

3 A No.

4 Q And I'm sorry. Again, because I don't  
5 know these things, but is not requesting a formal  
6 report, is that the same thing as whether or not you  
7 pressed charges?

8 A Yes.

9 Q Okay. So you didn't press charges?

10 A The reason you want a police report  
11 taken is because you have a criminal action done to you  
12 and you want --

13 Q Got it.

14 A -- to have them criminally, you know,  
15 prosecuted.

16 Q Okay.

17 A That's why we take police reports.

18 Q Okay.

19 Other than the officers you spoke to  
20 that day, did you speak to any other  
21 City of Palos Verdes Estates police officers about what  
22 occurred on January 29, 2016?

23 MR. FRANKLIN: Vague and ambiguous.

24 BY MS. HEWITT:

25 Q Let's start -- we'll start with, like,

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Los Angeles, California

Tuesday, October 11, 2016, 1:42 p.m.

-oOo-

A F T E R N O O N   S E S S I O N

(All appearances remain as heretofore  
noted in addition to Mark C. Fields, Esq.,  
who has joined the proceedings.)

EXAMINATION (CONTINUED)

BY MS. HEWITT:

Q        Going back on the record, Mr. Spencer,  
welcome back.

A        Thank you.

Q        We were talking about the January 29,  
2016 visit to Lunada Bay, and the police presence that  
you're describing. I think -- I looked at the court  
reporter's screen. I think you said that there were  
two to three police officers there, including a  
sergeant; is that right?

A        Not in January.

Q        Not in January. Okay. Some other time.  
Okay. In January, can you describe to me -- can you  
tell me how many Palos Verdes Estates police officers

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1       were there?

2               A       I can't give you a for sure number, but  
3       it was over the -- over the three that we just talked  
4       about. I would say up to five or six.

5               Q       Okay. And did you see any police cars?

6               A       Yes.

7               Q       Okay.

8                       Did you see any other police-type  
9       vehicles?

10              A       Yes.

11              Q       What were those?

12              A       There was a motorcycle, and I don't know  
13       what they call it, but it's equivalent to like we have  
14       cadets; so and they -- I'm pretty sure they were in a  
15       different color uniform. They weren't officers.

16              Q       Like an explorer?

17              A       Either parking -- not explorer, but they  
18       were either a cadet, a police service officer, or like  
19       a parking -- I don't recall.

20              Q       Okay. And were the police service/cadet  
21       people, are those included in the three to five to six  
22       that you saw?

23              A       Yes.

24              Q       Okay.

25                       How many police cars did you see?

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1           A           Probably -- well, approximately, three  
2           cars that were actual black-and-whites.

3           Q           Okay.

4                       Did you see any other cars that you  
5           believe were PVE police that that were not  
6           black-and-whites?

7           A           Motorcycles.

8           Q           Okay.

9                       How many motorcycles did you see?

10          A           Just one motorcycle.

11          Q           Okay.

12                      When you left that day in January of  
13          2016, were the police personnel that you just described  
14          to me still there?

15          A           Yes.

16          Q           Okay.

17                      When you left, did Chris Taloa leave at  
18          the same time?

19          A           No.

20          Q           Okay.

21                      Do you recall if Diana Milena Reed  
22          stayed after you left?

23          A           Yes. I left before anyone else.

24          Q           Okay. All right.

25                      Did you communicate to the

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1 PVE Police Department about the January 29, 2016  
2 incident by phone to anybody?

3 A What incidents?

4 Q What occurred on January 29, 2016, any  
5 part of it?

6 A In regards to?

7 Q What occurred to you on that day.

8 A No.

9 Q Okay.

10 How about with regard to -- how about by  
11 E-mail?

12 A I don't recall doing so, no.

13 Q How about by letter, snail mail?

14 A No. I am advanced enough. I don't  
15 really send letters anymore.

16 Q All right.

17 Did you post on social media of any  
18 type --

19 A No.

20 Q --specifically with regard to that  
21 date? No?

22 A No.

23 Q Okay. And I should have been a little  
24 clearer -- go ahead.

25 A No, social media, no.

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1 Q Okay.

2 Did you post on any city-related sites  
3 Facebook posts? I know you're not on Facebook, but any  
4 sort of tweeting at the city, anything like that,  
5 telling the city about what occurred on January 29,  
6 2016?

7 A No.

8 Q Okay.

9 Did you communicate with the city by any  
10 other means that I did not go over?

11 A No.

12 Q Okay. All right.

13 If we go on in the complaint, still on  
14 page 12, at the bottom, it says (as read):

15 "In February, Spencer returned  
16 a second time with Jordan Wright and  
17 others to observe and watch the outsiders'  
18 cars parked on the bluff."

19 Is that correct?

20 A That's correct.

21 Q All right.

22 So Jordan Wright, when was the first  
23 time you met him?

24 A January 29th.

25 Q Okay. And have you ever talked to

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1 Lunada Bay?

2 A How did I decide?

3 Q Good point. Bad question.

4 Why did you decide?

5 A I knew there was still swell in the  
6 water. I knew that Chris still wanted to surf, and I  
7 wanted to go help in any way I could, as far as making  
8 it a peaceful endeavor and making sure that nothing was  
9 damaged, meaning the property and the cars; and I  
10 decided to go to watch the property.

11 Q How did you find out that Jordan and  
12 these others were going?

13 A I think through texting with Chris, just  
14 saying, you know, who was going to be there and what  
15 day they were going.

16 Q From the outset, like when you decided  
17 -- from the point that you decided to go in February,  
18 was it always the case that you did not intend to surf?

19 A Yes.

20 Q Okay. So you only intended to go and  
21 watch the outsiders' cars parked on the --

22 A I knew I wasn't going to surf that day.

23 Q All right.

24 Did you only intend to go to watch the  
25 outsiders' cars parked on the bluff?

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1 MR. FRANKLIN: Vague and ambiguous.

2 THE WITNESS: And be a witness if anything  
3 happened; watch cars; just kind of -- not protect the  
4 area but just, you know, be a witness in case something  
5 happened.

6 MS. HEWITT: Okay.

7 Q At the time that you went in February of  
8 2016, had you retained Mr. Franklin and Mr. Otten?

9 A I'm sorry. Repeat that.

10 Q At the time that you went to Lunada Bay  
11 in February of 2016, had you retained Mr. Franklin and  
12 Mr. Otten?

13 A No.

14 Q At the time that you went in February of  
15 2016, had you discussed filing a lawsuit with regard to  
16 Lunada Bay with anybody other than your attorneys in  
17 this matter?

18 A No.

19 Q Okay. All right.

20 When you arrived at Lunada Bay --  
21 withdraw.

22 Did you advise anybody at the  
23 City of Palos Verdes Estates about your February 2016  
24 visit to Lunada Bay before it took place?

25 A Forgive me. Repeat.

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1 Q That's okay.

2 Before you went in February of 2016, did  
3 you tell anybody at the City of PVE that you were going  
4 to be there in February?

5 A Yes. Sorry. I interrupted.

6 Q That's okay.

7 A Yes, I believe I E-mailed the same  
8 Captain Velez and told him we'd be out there again.

9 Q Did you get a response?

10 A Yes. And I don't recall what it was. I  
11 think -- something to the effect of, "Thank you for  
12 letting us know," type thing.

13 Q Were you satisfied with the response at  
14 the time?

15 MR. FRANKLIN: Vague and ambiguous.

16 THE WITNESS: At the time, it was adequate to  
17 what I asked for; so, I'd have to answer yes.

18 BY MS. HEWITT:

19 Q Do you recall feeling any need to follow  
20 up with the captain?

21 MR. FRANKLIN: Vague and ambiguous.

22 THE WITNESS: Following -- at what point?

23 BY MS. HEWITT:

24 Q Oh, at that time when you received the  
25 first response.

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1 A No, I didn't feel a need to say anything  
2 else to him.

3 Q Okay.

4 Other than Captain Velez, is there  
5 anybody else that you communicated with at the city  
6 with regard to your impending visit to Lunada Bay in  
7 February of 2016?

8 MR. FRANKLIN: Vague and ambiguous.

9 THE WITNESS: At some -- at some point -- and I  
10 don't recall when it was -- I had wrote the chief or  
11 E-mailed the chief, and I don't know if it was on or  
12 before that time you're speaking of.

13 MS. HEWITT: Okay.

14 Q When you went in February 2016, did you  
15 go by yourself and meet people there?

16 A Yes. I met Chris and Jordan and Diana  
17 and Kenny.

18 Q Okay.

19 What happened when you first got there?

20 A We parked.

21 Q And what was the next thing you did?

22 A They got ready to go in the water.

23 Q And who is "they"?

24 A Chris, and I believe Jordan. I don't --  
25 I don't recall -- I know more went in the water that

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1 assaulted down on the fort, and I can't remember what  
2 day that was.

3 Q Okay. And you don't remember when she  
4 told you that; right?

5 A No, I don't.

6 Q All right.

7 When you went in February of 2016, did  
8 anybody -- withdraw.

9 Did you, in fact, watch the outsiders'  
10 cars parked on the bluff?

11 A Yes.

12 Q Did anybody watch with you?

13 A Not that I recall. Like I say, I don't  
14 -- there's a couple that stayed behind; so, I don't  
15 know if they were -- I can only tell what I did. I  
16 don't know if a couple of the guys that were there with  
17 the group either stayed behind, and I don't know what  
18 they did, if they were watching; but I was specifically  
19 there to watch everybody's cars so ...

20 Q And what did you do in that regard?

21 A Just sat on the side of the road and  
22 watched our property.

23 Q Okay.

24 Were you harassed while you were  
25 watching the property?



1           A           You could -- yes. When people call you  
2           the same things they called on the first visit, "kook,"  
3           and, you know, "What are you doing?" Same stuff, that's  
4           harassment. I feel I was harassed.

5           Q           Okay. Just to be -- I'm unclear. Were  
6           you harassed?

7           A           Yes.

8           Q           Okay.

9                       Tell me what happened?

10          A           Just name calling.

11          Q           And who called you names?

12          A           I don't know who they are.

13          Q           Where were they?

14          A           Just passersby real slow in their  
15          trucks; in their cars; guys standing on the bluff. I  
16          recall on the February date, specifically,  
17          Defendant Blakeman constantly circling us, everybody  
18          who was out there to surf that was not from there;  
19          that's not a Bay Boy; sticking his GoPro in our faces  
20          for reasons we could only determine were to identify us  
21          to their group so that they would know who we are.  
22          I've never had that happen. Bless you. And, you know,  
23          when you go to a beach and somebody is sticking a  
24          camera in your face, is it to --

25          Q           When did --

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1 A Who knows?

2 Q When did that occur? While you were  
3 watching the cars?

4 A While we were watching the cars; when we  
5 arrived; when they were getting out of the water,  
6 meaning Jordan and Chris; while we were standing at our  
7 cars. It was just odd.

8 Q So he stuck a GoPro in your face?

9 A Yes.

10 Q Okay.

11 Can you tell me just -- you can  
12 demonstrate -- how close the GoPro got to your face?

13 A Not -- when I say, "in my face," just  
14 kind of, you know, even from a distance of this far; so  
15 five feet to, you know, 30, 40, 50 feet. It's just  
16 odd.

17 Q Did you feel threatened by that  
18 behavior?

19 A Of course.

20 Q So --

21 A When you show up to a beach and someone  
22 that you know is one of the little -- the local  
23 controllers/harassers of that place sticking a camera  
24 in your face, why is he doing that? To intimidate you  
25 and to make you feel uncomfortable.

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1 considered to be the Bay Boys?

2 MR. WORGUL: Same objections.

3 THE WITNESS: In my opinion?

4 MS. HEWITT: Yes.

5 THE WITNESS: The ones that roll by slowly;  
6 that don't get called names themselves; that are doing  
7 the name calling --

8 MS. HEWITT: Yes.

9 THE WITNESS: -- are members of the Bay Boys.

10 MS. HEWITT: Okay.

11 Q Did you recognize any of them?

12 A No.

13 Q Okay. And, then, you described Blakeman  
14 holding out a GoPro on a selfie stick. Did anything  
15 else occur to you while you were watching the cars that  
16 day in February?

17 A Anything else?

18 Q Any other harassment; violence?

19 A No.

20 Q Okay.

21 Any other incidents of localism?

22 MR. FRANKLIN: Vague and ambiguous.

23 THE WITNESS: Well, you know, when they get on  
24 their phones as they're passing by in their car; and,  
25 then, more and more start to show up, you know, I guess

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1       that to you?

2               A       No, I don't.

3               MS. HEWITT: Okay. All right. And, then,  
4       let's look at this -- what's the next exhibit?

5               THE REPORTER: Forty-two is your next exhibit.

6               MS. HEWITT: Forty-two. Okay. Here is 42,  
7       which is Bates-stamped CITY1807 for those of you on the  
8       phone.

9                               (Defendants' Exhibit 42 was marked for  
10       identification by the Certified Shorthand Reporter  
11       and is enclosed herewith.)

12       BY MS. HEWITT:

13               Q       This is a one-page E-mail that was  
14       produced by the city, I think, in response to a  
15       Public Records Act request, and it was produced  
16       redacted; so, this is how I got it too.

17                       Why don't you take a look at that,  
18       Mr. Spencer, and tell me if you recognize what's said  
19       in that E-mail.

20               A       Yeah, that's the E-mail I sent to him.

21               Q       Okay.

22                       The date matches up with what you told  
23       us today. So, let's go through this E-mail. First of  
24       all, the subject line that you chose, "Lunada UC ops,"  
25       can you tell me if "UC" referred to undercover?

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1 A Yes.

2 Q And "ops" is operations?

3 A Yes.

4 Q Okay. And the first sentence says  
5 (as read):

6 "Sir, first of all, I'd like  
7 to thank you and your dept. for the  
8 response in extra patrols down at  
9 Lunada Bay."

10 A Correct.

11 Q All right.

12 Did you feel thankful for extra patrols  
13 down at Lunada Bay?

14 A Of course.

15 Q All right.

16 Next, you say (as read):

17 "I am active law enforcement  
18 (ESPD) and have been emailing  
19 Capt. Velez every time we (Aloha point  
20 Facebook group - a group of non-locals)  
21 venture out to the bay on a big swell day."

22 "ESPD," was that El Segundo Police  
23 Department?

24 A Yes.

25 Q All right. And was it correct that you

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1 had been E-mailing Captain Velez every time you were  
2 venturing out on a big swell day?

3 A On those two days, yes.

4 Q Okay. So, you were referring to those  
5 two days, January and February of 2016?

6 A Correct.

7 Q All right. So, each time you E-mailed  
8 them, is it correct that you witnessed extra patrols  
9 being provided?

10 A Yes. In my opinion, that's what they  
11 were. The officers were there because, hopefully, in  
12 response to my E-mail.

13 Q All right.

14 You go on to write (as read):

15 "He has been kind enough to  
16 respond, and we've been encouraged to  
17 see PV officers."

18 Was that accurate?

19 A Correct.

20 Q The next paragraph states (as read):

21 "Anyway, several years ago  
22 (around 02' or 03') the then chief of  
23 PV asked several surrounding agencies to  
24 see if officers who surfed would be willing  
25 to paddle out 'on duty-undercover.'"

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1 on the board or something like that, and I don't know  
2 who that was. From what I remember, I don't think they  
3 were currently a member of them, but they used to be.  
4 I don't remember who it was.

5 Q Okay.

6 Put that right to the side because I'm  
7 going to ask you some more questions about this E-mail.

8 A Which one?

9 Q The one we just looked at. Yeah, put  
10 that off, because I'm going to come back to that.  
11 Going back real briefly to the complaint on page 13,  
12 following the February 2016 visit to Lunada Bay, did  
13 you ever return to Lunada Bay and attempt to surf?

14 A No.

15 Q Did you ever return to Lunada Bay and --  
16 at all after that time?

17 A I have, yes.

18 Q All right.

19 How many times?

20 A Anywhere from three to five.

21 Q Okay.

22 On each of those visits, did you go down  
23 to the beach?

24 A No. Up on the bluff only.

25 Q Okay.

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1 Did you go in your car at any time  
2 because you were afraid?

3 A No.

4 Q All right.

5 At any time when you were watching the  
6 cars, were you in fear of violence?

7 MR. FRANKLIN: Vague and ambiguous.

8 THE WITNESS: It is, because you know -- you  
9 don't know what's going to happen when you see guys on  
10 cell phones driving by real slow looking at you; and,  
11 then, more guys show up. So was I worried that there  
12 could be violence? Yes, there could have been.

13 MS. HEWITT: Okay.

14 Q Were you worried about bodily harm  
15 occurring to yourself?

16 A Yes.

17 Q And what did you base that worry on?

18 A Guys on cell phones driving by real slow  
19 and more guys showing up after you see them on cell  
20 phones. Kind of crazy at a beach where violence is  
21 documented for 40 years. I based it on my own fear.

22 Q And this is the fear based on the 30 to  
23 40 years of documented violence?

24 A All the stories and violence and what  
25 goes on down there, yeah.

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1 Q Okay.

2 A It's crazy.

3 Q Is it based at all on your January 2016  
4 visit?

5 A I would say of course. How can it not  
6 when you get your hand sliced open?

7 Q Okay.

8 Was it -- was it based on what or  
9 anything you experienced while you were watching the  
10 cars other than what you've already told me?

11 A Yes, the whole totality -- the whole  
12 totality of the situation gives you fear. But, at some  
13 point, you got to stand up to people that are acting  
14 like bullies and, you know, deal with it.

15 Q Okay. So, I'm just trying to write down  
16 all these things here. So, we talked about the 30 to  
17 40 years of documented incidents; guys on cell phones  
18 driving by and, then, more guys showing up; having your  
19 hand cut in January. Is there anything else that I've  
20 missed?

21 MR. FRANKLIN: Misstates prior testimony.

22 THE WITNESS: Guys walking around a bluff  
23 throwing GoPros in your face and guys knowing --  
24 potentially knowing who you are from those pictures  
25 that he shares with his buddies, yeah, all that. You

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1 A I don't.

2 Q Was the last time that you E-mailed  
3 Captain Velez with regard to your February 2016 visit?

4 A Again, may or may not be. I don't  
5 recall the last E-mail.

6 Q Okay.

7 Other than Captain Velez and  
8 Chief Kepley, have you communicated with any other  
9 City of Palos Verdes Estates Police Department  
10 representatives?

11 A Have I communicated with?

12 Q Right. Good point. Let's go back.

13 We talked about some that you spoke with  
14 in your January 29th, 2016 visit. At the February 2016  
15 visit, were there any Palos Verdes Estates  
16 Police Department representatives there?

17 A Yes.

18 Q Okay. And how many did you identify --

19 A I think there was only two patrolmen and  
20 a sergeant that day; but if there were more, I didn't  
21 see them or don't recall.

22 Q Okay.

23 Did you see any marked police cars in  
24 February?

25 A Yes.

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1 Q How many?

2 A Two or three.

3 Q Okay.

4 Did you see any motorcycles?

5 A I don't recall seeing a motorcycle in  
6 February.

7 Q All right.

8 Other than in January and February of  
9 2016, did you ever speak to any City of Palos Verdes  
10 Estates Police Department representatives in person  
11 with regard to Lunada Bay?

12 A I don't -- I don't recall. I don't  
13 recall doing so.

14 Q Okay.

15 Other than E-mails with Captain Velez  
16 and Chief Kepley, do you recall any other E-mail  
17 communication with anybody from the City of Palos  
18 Verdes Estates Police Department with regard to  
19 Lunada Bay?

20 A I do not.

21 Q Okay.

22 Do you recall any phone communications  
23 with anybody at the PVE Police Department with regard  
24 to Lunada Bay?

25 A Again, I answered that before. I don't

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1 off-duty weapon.

2 Q Okay. That didn't sound smug at all.

3 A Okay. I didn't want to.

4 Q Not at all.

5 A They always say, "revolver." Yeah, we  
6 used to carry those back in the '70s.

7 Q I'm sure it's all TV.

8 All right. With regard to the pain and  
9 suffering, lack of sleep, emotional distress, and  
10 mental anguish, do you attribute any of those  
11 specifically to the actions of Chief Kepley?

12 A Yes. I'm disappointed in him. I'm  
13 disappointed that him and his department are not taking  
14 care of the problem, yes.

15 Q And you're disappointed because  
16 Chief Kepley has not eliminated the problem, or do you  
17 mean something else by taking care of it?

18 A Yes, eliminated the problem.

19 Q All right.

20 You would agree that extra patrols were  
21 provided in January and in February of 2016 when you  
22 asked for them; right?

23 A Wholeheartedly agree.

24 MR. FRANKLIN: Vague and ambiguous; calls for  
25 speculation; move to strike.

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1 MS. HEWITT: Did you move to strike, Counsel?

2 MR. FRANKLIN: I did.

3 MS. HEWITT: On what basis?

4 MR. FRANKLIN: Lack of foundation. It was  
5 vague and ambiguous and calls for speculation.

6 MS. HEWITT: Okay.

7 Q So is it true that you believe that  
8 extra patrols were provided at the January 2016 visit  
9 to Lunada Bay?

10 MR. FRANKLIN: Same objection.

11 THE WITNESS: I believe extra patrol was sent  
12 down there, yes.

13 BY MS. HEWITT:

14 Q All right. Same question for the  
15 February 2016 visit.

16 MR. FRANKLIN: Same objection.

17 THE WITNESS: Yes.

18 MS. HEWITT: Okay.

19 Q All right. With regard to your alleged  
20 pain -- withdrawn.

21 With regard to the pain and suffering,  
22 loss of sleep, emotional distress, and mental anguish  
23 that you've discussed here today, do you attribute any  
24 of that to the City of Palos Verdes Estates?

25 A In the sense of the city employs the

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1 me.

2 Q Have you ever advised someone on how to  
3 do a citizen's arrest?

4 A On how to do it?

5 Q Yes.

6 A Typically, what I advise somebody is  
7 when they state they want to make one or, say, a  
8 misdemeanor has been committed not in my presence, I  
9 just -- the phone. I didn't know if that was something  
10 coming up.

11 I'll advise them that they can make the  
12 citizen's arrest. I will facilitate the arrest; take  
13 that person into custody for them; either issue them a  
14 citation, where it's warranted, or take the person to  
15 jail if it's warranted.

16 Q So, you have an understanding of how  
17 that process works?

18 A I -- I've done it several times; so, I  
19 think so.

20 Q Is there any reason that at any point in  
21 time that you've had some sort of problem at  
22 Lunada Bay, you have not effected a citizen's arrest?

23 A Yes.

24 Q What's the reason?

25 A I didn't think it would go anywhere with

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1 the DA.

2 Q Okay.

3 How would you know that unless you did  
4 it?

5 A I wouldn't.

6 Q But would I be correct in saying that  
7 you consciously knew you had the option to do it if you  
8 desired to do it whenever you were present at  
9 Lunada Bay, and there was other law enforcement  
10 present?

11 A Yes.

12 Q And you chose not to; correct?

13 A Well, I have that discretion. I chose  
14 not to.

15 Q You said there's a channel at  
16 Lunada Bay. Where's the channel?

17 A Well, a channel is a moving thing with  
18 tide and positioning of the wave, depending on the  
19 conditions; so, a "channel," again, in parenthesis --  
20 sorry -- to describe a channel, is a place where the  
21 wave is not breaking at a critical point, where you  
22 would paddle out to and into the channel to get back  
23 out to what's called the "lineup," where you sit and  
24 wait for the waves.

25 Q Do you know where the channel is at

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1 MR. WORGUL: Okay.

2 MS. LUTZ: Can we take a break for a second?  
3 Just like two minutes.

4 MS. HEWITT: Is that okay with you,  
5 Mr. Spencer?

6 THE WITNESS: Yes.

7 (A recess was taken at 5:30 p.m.  
8 until 5:39 p.m.)

9 (Whereupon, Mark C. Fields, Esq.,  
10 left the proceedings.)  
11

12 FURTHER EXAMINATION

13 BY MS. HEWITT:

14 Q All right. Counsel has kindly allowed  
15 me to ask one question I forgot to ask earlier.

16 A Okay.

17 Q With regard to he asked you what a  
18 "kook" meant, and I think you said something about not  
19 being from around the area or such. Did you -- were  
20 you ever asked by anybody at the City of Palos Verdes  
21 Police Department where you lived whenever you talked  
22 to them about anything about Lunada Bay?

23 A Not that I recall.

24 Q Okay. Thank you.

25 MR. WORGUL: I'll want to attach it.

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1 MS. LUTZ: Yes.

2 THE REPORTER: Mr. Franklin, did you want a  
3 certified transcript?

4 MR. FRANKLIN: Yes.

5 (Deposition proceedings concluded at  
6 6:35 p.m. Declaration under penalty of perjury on the  
7 following page hereof.)  
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5  
6 I do solemnly declare under penalty of  
7 perjury, under the laws of the State of California,  
8 that the foregoing is my deposition under oath; that  
9 these are the questions asked of me and my  
10 answers thereto; that I have read same and have made  
11 the necessary corrections, additions, or changes to  
12 my answers that I deem necessary.

13 In witness thereof, I hereby subscribe my  
14 name this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

15  
16  
17  
18  
19 \_\_\_\_\_  
20 Witness Signature  
21  
22  
23  
24  
25

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Certification of Court Reporter

Federal Jurat

I, the undersigned, a Certified Shorthand  
Reporter of the State of California do hereby certify:

That the foregoing proceedings were taken  
before me at the time and place herein set forth;  
that any witnesses in the foregoing proceedings, prior  
to testifying, were placed under oath; that a verbatim  
record of the proceedings was made by me using machine  
shorthand which was thereafter transcribed under my  
direction; further, that the foregoing is an accurate  
transcription thereof.

That before completion of the deposition, a  
review of the transcript [X] was [ ] was not requested.

I further certify that I am neither  
financially interested in the action nor a relative or  
employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date  
subscribed my name.

Dated: October 21, 2016



Carmen R. Sanchez

CSR No. 5060

Mark Velez

From: Jeff Kepley  
Sent: Saturday, March 05, 2016 9:11 AM  
To: Mark Velez  
Subject: Fwd: Lunada UC ops

REDACTED

FYI.

Jeff Kepley

Begin forwarded message:

From: '  
Date: March 4, 2016 at 10:12:35 PM PST  
To: jkepley@pvestates.org  
Subject: Lunada UC ops

Sir, first of all, I'd like thank you and your dept. for the response in extra patrols down at Lunada Bay. I am active law enforcement (ESPD) and have been emailing Capt. Velez every time we (Aloha point Facebook group-a group of non-locals) venture out to the bay on a big swell day. He has been kind enough to respond, and we've been encouraged to see PV officers.

Anyway, several years ago (around 02' or 03') the then chief of PV asked several surrounding agencies to see if officers who surfed would be willing to paddle out "on duty-undercover."

I was approached along with a few more of our officers and we were excited to help out. For reasons unknown, nothing ever materialized. I think it would be worth another shot and be very effective. I'm sure my chief would assist in letting the few of us that do surf help out should you ever want to try something like that.

It really is too hard to observe anything that really goes on down there from the bluff. Although, I understand two younger officers actually made their way down to the fort and were actually able to finally witness/document a 415. You know, and I know, the DA will most likely reject it, but kudos to them for their descent from the bluff to the beach.

Thanks for reading, and possibly considering a UC operation as I've suggested. As a side issue, I have recently been made aware of, and feel a brotherly sense of duty, to make you aware of some upcoming legal actions in the works by a very large, non-profit foundation heavily invested in coastal matters (this is separate from the coastal commission thing). There are attorneys plotting strategies as we speak, to basically force the city (consent decree type) to make Lunada Bay very "public access." This could mean many things (signage, trail improvement, parking, etc...). Just wanted to give you a heads up so your not blindsided.

Again, thanks for the response.

DEFENDANT'S EXHIBIT NO. 42  
For Identification  
Witness: C.E. Spencer  
Date: 10/11/2016 Page No: 1PS  
Carmen R. Sanchez, CSR No. 5060